

CAUSE NO. _____

JAMES ROBERT JONES and ALLEN
WATSON,

Plaintiffs,

V.

SYLVESTER TURNER, in his official capacity
as Mayor of the City of Houston, Texas, and
DWIGHT BOYKINS, MARTHA CASTEX-
TATUM, KARLA CISNEROS, ELLEN R.
COHEN, JACK CHRISTIE, JERRY DAVIS,
AMANDA EDWARDS, ROBERT
GALLEGOS, MIKE KNOX, MICHAEL
KUBOSH, MIKE LASTER, STEVE LE,
DAVE MARTIN, DAVID ROBINSON,
BRENDA STARDIG, and GREG TRAVIS, in
their official capacities as City Council
Members of the City of Houston, Texas,
Defendants.

[illegible]

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION
AND APPLICATION FOR PERMANENT INJUNCTION AND MANDAMUS

TO THE HONORABLE HARRIS COUNTY DISTRICT COURT JUDGE:

NOW COME Plaintiffs James Robert Jones and Allen Watson, filing this Original Petition and Application for Permanent Injunction and Mandamus, and would respectfully show the Court as follows.

1. Discovery in this matter will be conducted under a Level 3 Discovery Control Plan as set forth in Texas Rule of Civil Procedure 190.4.
2. Plaintiff James Robert Jones is a resident of the City of Houston and a property-tax-paying real property owner in the City of Houston. Mr. Jones owns the residential property, at which he resides, located at 402 Bayou Cove Court, Houston, Texas 77042, and pays the City of Houston the property tax amounts annually levied on such residential real property.

3. Plaintiff Allen Watson is a resident of the City of Houston and a property-tax-paying real property owner in the City of Houston. Mr. Watson owns the residential property, at which he resides, located at 739 Somerset Commons Lane, Houston, Texas 77055, and pays the City of Houston the property tax amounts annually levied on such residential real property.

4. Defendant Sylvester Turner is sued in his official capacity as the Mayor of the City of Houston (the “Mayor”). The Defendant Mayor may be served with suit by delivering citation and a copy of this petition to him at Houston City Hall, 901 Bagby, Houston, Texas 77002, or wherever else he may be found.

5. Defendants Dwight Boykins, Martha Castex-Tatum, Karla Cisneros, Ellen R. Cohen, Jack Christie, Jerry Davis, Amanda Edwards, Robert Gallegos, Mike Knox, Michael Kubosh, Mike Laster, Steve Le, Dave Martin, David Robinson, Brenda Stardig, and Greg Travis are sued in their official capacities as Members of the City Council of the City of Houston, Texas (the “City Council Members”). The Defendants City Council Members may be served with suit by delivering citation and a copy of this petition to them at Houston City Hall Annex, 900 Bagby, Houston, Texas 77002, or wherever else they may be found.

6. The Court has jurisdiction in this cause pursuant to Texas Civil Practice and Remedies Code sections 37.003 and 65.021 and Texas Government Code chapter 24. Defendants have acted outside their authority under applicable law and applicable provisions of the City of Houston Charter. Defendants’ acts and/or omissions are *ultra vires*. Defendants have no governmental immunity with respect to their *ultra vires* actions. The amount in controversy in this cause exceeds the minimum jurisdictional requirements for this Court.

7. Venue is proper in Harris County pursuant to Texas Civil Practice and Remedies Code section 15.002. The Defendants’ principal offices are in Harris County, Texas, and all or a

substantial part of the events, acts, and/or omissions giving rise to Plaintiffs' claims occurred in Harris County, Texas.

8. Plaintiffs seek monetary relief of \$100,000 or less and non-monetary relief. The damages sought by Plaintiffs are within the jurisdictional limits of the Court. Plaintiffs also demand a judgment for all other relief to which they are entitled.

9. All conditions precedent to this suit have been performed or have occurred.

10. The Mayor and the City Council Members (collectively, "Defendants") are violating the terms of the Houston City Charter (the "Charter").

11. The voters of the City of Houston overwhelming approved Proposition A on November 6, 2018. Over 74 percent of the votes cast on Proposition A were a vote of "Yes." Yet, contrary to this mandate, Defendants seek to dilute the will of the citizens of the City of Houston through undisclosed manipulations of the accounting applied to funds that are or should be dedicated to the Dedicated Drainage and Street Renewal Fund.

12. Proposition A amended the Charter to add a new Article IX, Section 22, entitled "Dedicated Pay-As-You-Go Fund for Drainage and Streets." The Dedicated Drainage and Street Renewal Fund is funded by four sources. Three of those sources are developer impact fees, drainage charges to properties, and proceeds from third party contracts, grants, or payments earmarked or dedicated to drainage or streets. The fourth source is what is at issue in this lawsuit. The fourth source consists of the following:

An amount equivalent to proceeds from \$0.118 of the City's ad valorem tax levy minus an amount equivalent to debt service for drainage and streets for any outstanding bonds or notes:

(A) Issued prior to December 31, 2011, and

(B) Bonds or notes issued to refund them.

HOUSTON CITY CHARTER art. IX, § 22(b)(iii).

13. Defendants have no discretion to calculate the “amount equivalent to proceeds from \$0.118 of the City’s ad valorem tax levy” beyond its straightforward mathematical formula. The 2019 assessed taxable property value is \$214,000,000,000.00. Thus, the amount equivalent to \$0.118 of the City’s ad valorem tax levy (calculated at \$.01 per \$100 in taxable value) is \$252,520,000.00:

$$\textbf{\$214,000,000,000 X (\$0.118 / \$100.00) = \$252,520,000.00}$$

14. Defendants also have no discretion to calculate the “amount equivalent to debt service for drainage and streets for any outstanding bonds or notes [i]ssued prior to December 31, 2011, and [b]onds or notes issued to refund them,” beyond its established mathematical formula.” For the year 2019, that amount is equal to **\$161,226,060.00**.

15. Thus, in accordance with the plain language of Article IX, Section 22(b)(iii) of the Charter, a total of \$91,293.940.00 is to be added to the Dedicated Drainage and Street Renewal Fund from the 2019 ad valorem property tax collected:

$$\textbf{\$252,520,000.00 – \$161,226,060.00 = \$91,293.940.00}$$

16. Yet, according to the City of Houston’s 2020 budget approved by Defendants, only \$47,103,000.00 is to be added to the Dedicated Drainage and Street Renewal Fund from the 2019 ad valorem property tax collected. Defendants are only paying into the Fund 51.6 percent of the amount that the Charter mandates be paid into the Fund for 2019.

17. Plaintiffs seek declaratory relief to the effect that the Defendants must calculate the funding amount in Houston City Charter Article IX, Section 22(b)(iii) such that a full \$0.118 of the City’s ad valorem tax levy shall be contributed to the Dedicated Drainage and Street Renewal Fund after deducting the amount equivalent to debt service, without reducing that

\$0.118 amount based on any revenue limitation contained elsewhere in the Houston City Charter.

18. Plaintiffs request that Defendants be permanently enjoined from reducing the proceeds from the City's ad valorem tax levy contributed to the Dedicated Drainage and Street Renewal Fund to an amount less than 11.8 cents of the rate per \$100 of taxable value, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter. Plaintiffs have no adequate remedy at law against Defendants' reduction of the amount of ad valorem tax revenues paid into the Dedicated Drainage and Street Renewal Fund.

19. Plaintiffs request that the Court enter mandamus relief mandating that Defendants contribute to the Dedicated Drainage and Street Renewal Fund the full amount of 11.8 cents of the rate per \$100 of taxable value from the proceeds of the City's ad valorem tax levy, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter. Defendants have a clear duty under the Houston City Charter not to reduce the amount of ad valorem tax revenues paid into the Dedicated Drainage and Street Renewal Fund, and Plaintiffs have no adequate remedy at law against such reduction.

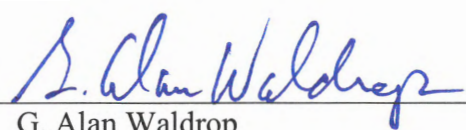
20. Plaintiffs request their attorneys' fees pursuant to Texas Civil Practice and Remedies Code chapter 37 and any other applicable Texas law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs James Robert Jones and Allen Watson respectfully request as follows:

- a. That Defendants be cited to appear and answer herein;

- b. That the Court enter a declaratory judgment that Defendants must calculate the funding amount in Houston City Charter Article IX, Section 22(b)(iii) such that a full \$0.118 of the City's ad valorem tax levy shall be contributed to the Dedicated Drainage and Street Renewal Fund after deducting the amount equivalent to debt service, without reducing that \$0.118 amount based on any revenue limitation contained elsewhere in the Houston City Charter;
- c. That Defendants be permanently enjoined from reducing the proceeds from the City's ad valorem tax levy contributed to the Dedicated Drainage and Street Renewal Fund to an amount less than 11.8 cents of the rate per \$100 of taxable value, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter;
- d. That the Court issue a writ of mandamus requiring Defendants to contribute to the Dedicated Drainage and Street Renewal Fund the full amount of 11.8 cents of the rate per \$100 of taxable value from the proceeds of the City's ad valorem tax levy, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter;
- e. That Plaintiffs be awarded their reasonable attorneys' fees, expenses, and costs incurred in this cause;
- f. That Plaintiffs be awarded all pre- or post-judgment interest as provided by law; and
- g. Such other and further relief to which Plaintiffs may be entitled.

Respectfully submitted,

By: _____

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For Immediate Release

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Houston Mayor and City Council Sued for Violating Prop A in 2020 Budget

*Budget illegally diverts funds from Dedicated Drainage & Street Renewal Fund,
created to fix Houston streets and drainage systems*

Houston, TX – October 21, 2019 – A lawsuit filed today in Houston District Court names Houston Mayor Sylvester Turner and members of the Houston City Council as defendants for violating the funding provisions of Proposition A, passed overwhelmingly by Houston voters in November, 2018. Proposition A created an amendment to the City Charter to establish a Dedicated Drainage and Street Renewal Fund (“DDSRF”) and devote all revenue from 11.8 cents of city ad valorem tax revenue - after payment of existing drainage and street bond payments - to that fund.

“Houstonians spoke loud and clear just one year ago when they voted to create a fund to fix our streets and drainage,” said plaintiff Bob Jones, an engineer, concerned citizen and supporter of Proposition A. “The budget recently passed by the City of Houston ignores the will of the people and violates the law by diverting tax dollars dedicated to streets and drainage to other purposes. We are undertaking this suit to ensure that the law is upheld, that the promised funding is protected so that our street and drainage infrastructure receives the investment necessary to repair, replace and upgrade our street and drainage systems throughout the city over the next 20-30 years.”

Proposition A Lawsuit Background

In 2010, ReNew Houston, a group of concerned citizens and engineers, gathered petitions to get Proposition 1 on the ballot, a charter amendment to create the infrastructure fund and its funding mechanism. The amendment passed by a narrow margin and was challenged in court by a group that argued the ballot language did not properly represent the intentions of the petition to voters.

The courts agreed with the challengers, directing the city to hold a new election on the original petition.

The November 2018 Proposition A election is the official vote on the 2010 petition which modifies the city charter to provide for a Pay-As-You-Go funding program with the DDSRF lock box that includes all revenue from 11.8 cents of city ad valorem tax revenue after payment of existing drainage and street bond payments.

City of Houston 2020 Budget

The city recently adopted its 2020 budget and set its 2019 ad valorem tax rate, the first actions by the Mayor and Houston City Council following the approval of the Proposition A charter amendment in 2018. The budget appears to ignore the 2018 election and refers to the 2010 election, which was held invalid by the courts, to establish its budget requirements. (City of Houston Fiscal Year 2020 Budget, Page XIV-3). If

the current illegal fund diversion continues over the next 10 years, the total funding loss to the DDSRF can be expected to exceed \$500,000,000.

The suit seeks to force the city to apply the unambiguous language of the charter amendment and fully fund the DDSRF, now and in the future.

“According to the 2020 budget, the City is short-changing the Dedicated Drainage and Street Renewal Fund by nearly half,” said Allen Watson, one of the plaintiffs in the suit, a Houston engineer and member of the original ReNew Houston effort in 2010. “We are confident the court will uphold the will of the people and direct the City not to engage in budget shenanigans like this in the future. This DDSRF should receive every penny mandated by law.”

“The Mayor and the City Council Members are violating the terms of the Houston City Charter,” said Alan Waldrop, the attorney representing the plaintiffs. “The voters of the City of Houston overwhelmingly approved Proposition A on November 6, 2018, with over 74 percent ‘Yes’ votes, but contrary to this mandate, the will of the citizens of the City of Houston is being diluted by City leaders through manipulations of funds that should be going to the Dedicated Drainage and Street Renewal Fund.”

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James R. (Bob) Jones, P.E.



Background

Bob Jones is now a semi-retired engineer who has been active in Houston and the Houston area for over 48 years. He has engaged in political, policy and infrastructure issues throughout his career.

In 2009-2010 he helped evaluate the status of the city's drainage and paving systems for the specific purpose of developing a model to solve Houston's long-term funding requirements for drainage and streets throughout the city. The evaluation resulted in the 2010 charter amendment petition drive to establish a program that would permanently fund the drainage and pavement costs for Houston.

While his background is broad across the civil engineering field, he has extensive insight and experience on local paving and drainage issues, groundwater problems, water supply and system operations, municipal water and wastewater issues, water district needs and finances, surveying, and construction issues.

He served 12 years on the Harris Galveston Coastal Subsidence Board of Directors as a City of Houston appointee. He was instrumental in the development of the current HGCSD groundwater withdrawal regulations that are currently driving the area conversion to more surface water use.

In 2002, Lt. Governor Bill Ratliff appointed him to serve on the Texas Building and Procurement Commission (formerly the General Services Commission) from 2002-2007. The TBPC had responsibility for the operation and maintenance of most of the State's office buildings, the state Cemetery, all leased office space along with procurement of state office supplies and services.

Bob has been actively involved with the City of Houston during the development of the 1983 City of Houston Design Guidelines. He worked closely with the City of Houston on the first update to the drainage guidelines in the late 1990's and actively participated in subsequent updates to the Houston Guidelines.

Jones is active with local and state organizations whose missions are to improve funding for infrastructure and to improve the regulatory environment that hinders the legitimate activities of municipal, water district, industrial, commercial and development clients.

Jones is a member of the Texas A&M Look College of Engineering Advisory Council and is an ex officio member of the Texas A&M Zachry Department of Civil Engineering Advisory Council. He was also honored with the Dwight Look College of Engineering Outstanding Alumni Honor Award and the Department of Civil Engineering Distinguished Graduate Award..

Bob was president, CEO, and founding partner of Jones & Carter, Inc., a general civil engineering company headquartered in Houston, Texas for 36 years (1976-2012) that grew from a one-man company in its infancy to over 380 when he departed in 2013. He is currently an owner and manager of Jones Engineering Solutions, LLC, a new venture that he founded in December, 2013

Education & Registration

Education: Master of Science in Civil Engineering

Texas A&M University – 1970

Bachelor of Science in Civil Engineering

Texas A&M University - 1970

Registration: Registered Professional Engineer - Texas No. 36949

Affiliations: American Council of Engineering Companies (ACEC)

ACEC Houston (formerly ACME)

- Co-Founder (1978)
- President (1978-1980)
- Director (1978-1986, 1987-1990, 1993-1994, 1999-2000)
- Chairman of numerous committees
- Treasurer (1999-2000)

ACEC Texas

- Treasurer (1999-2000)
- Vice President, State Legislative Committee (1993-1995)
- Chairman, Public Affairs Committee (1977-1978)
- Director (1977-78, 1993-1995, 1999-2000)
- President

American Society of Civil Engineers

Harris-Galveston Coastal Subsidence District (Past Director)

National Society of Professional Engineers

North Houston Association

Texas Society of Professional Engineers

Texas Surveyors Association

West Houston Association

October, 2019

ALLEN D. WATSON, P.E.



Mr. Watson's distinguished 30-year career as a professional engineer included project management and corporate leadership. His experience gained through positions at Harris County's Public Infrastructure Department and private engineering firms in the Houston-area includes the design of roadways, bridges, water supplies, sanitary sewers, drainage, and telecommunication projects. Mr. Watson became a principal at CobbFendley in 1999 and President in 2007. The combination of Mr. Watson's technical knowledge with practical, straight-forward communications skills has provided clients, such as the Cities of Houston and Austin, Harris, Williamson and Hays Counties, TxDOT and telecommunications companies with proactive and implementable solutions.

Mr. Watson retired in June 2013 and formed Malone Street Consulting, LLC.

Professional and Community Involvement

- City of Houston - In 2010 Mr. Watson was appointed by Mayor Annise Parker to the METRO Board of Directors. During his tenure as the Board Vice Chairman he helped pass a referendum to increase future revenue, continued construction of three new rail lines, reduced the agency's debt, improved procurement practices and procedures and approved a new 5-year transit plan focused on substantially improving METRO's local bus services. His term ended in 2015.
- ReNew Houston – Mr. Watson collaborated with several interested citizens and professionals to form the original ReNew Houston committee. He worked with others to raise funds and secure signatures for the petition drive to place the referendum on the ballot in 2010. He remained part of the Proposition #1 committee after the referendum was struck down in court to make sure the referendum passed the second time in 2018.
- City of Houston - In 2009 Mr. Watson was appointed by Mayor Bill White to the City of Houston Airport Land Use Regulations Board of Adjustments. Specific responsibilities include regulating land use around the City's three airports to protect the public's health, safety, and welfare.
- Greater Houston Partnership - Mr. Watson was a member of the Aviation and Ports/Waterways Subcommittees, which monitor expansion of facilities at the City's three major airports and at the Port of Houston. These Committees advocate facility expansion to accommodate future travel and cargo projections. He also served on the Transit Planning Subcommittee which reviews transit initiatives and submits recommendations to the Transportation Committee for analysis and inclusion into the Partnership's overall master transportation plan.
- American Council of Engineering Companies Texas (ACEC Texas) - Mr. Watson served as Chairman of the State Board of Directors, Chairman of the State Legislative Committee and ACEC Houston steering committee. Mr. Watson continues to participate with the PCP committee in its ongoing initiatives to improve transportation funding and industry regulations.
- West Houston Association - Mr. Watson served on the Association's Drainage Committee analyzing drainage solutions for West Houston and frontier areas of Harris County.
- Texas Society of Professional Engineers (TSPE) Greater Houston Chapter - In 1994, Mr. Watson was honored with the Houston Area Young Engineer of the Year Award for his dedication to the engineering field and the Houston community. He has held numerous board positions at the Chapter level of TSPE, including President in 2001-02.

- MATHCOUNTS - Mr. Watson served as state chairman for the MATHCOUNTS program, a nationwide math skills and coaching program that promotes math excellence for 6th, 7th and 8th grade students. As state chairman he established a permanent endowment fund for the program which reaches over 30,000 students in Texas each year.

Education & Licenses

Bachelor of Science in Civil Engineering
Texas A&M University – 1983

Licensed Professional Engineer – Texas #64308 & Utah #6972442-2202